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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,493

01/23/2004

Joseph G. Furst

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03/21/2006

EXAMINER

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ART UNIT

PAPER NUMBER

3738

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding..

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10:763-493

EXAMINER

ART UNIT

PAPER

20060312

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attached document please enclose document titled 714.02

***Response to Amendment***

The reply filed on 12/19/05 is not fully responsive to the prior Office Action because: the prior response dated 11/23/05 stated that: "The reply must present arguments pointing out the specific distinctions believed to render the claims, and where support for the amendments is found in the specification (see MPEP 714.02 and 2163.06) including any **newly** presented claims, patentable over any applied references" (emphasis added). See 37 CFR 1.111.

Applicant response dated 12/19/05 states "...Applicants have review MPEP 714.03 and 2163.06 and could not locate the quote or passage set forth by the examiner in these cited sections...". The applicant did not quote the correct section relied upon by the examiner (which stated about is 714.02) nevertheless it states:

The claims may be amended by canceling particular claims, by presenting new claims, or by rewriting particular claims as indicated in 37 CFR 1.121(c). The requirements of 37CFR 1.111(b) must be complied with by pointing out the **specific distinctions** believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments.

Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP § 2163.06. An amendment which does not comply with the provisions of 37 CFR 1.121(b), (c), (d), and (h) may be held not fully responsive. See MPEP § 714.

Art Unit: 3738

A copy has been enclosed with this office action for applicants review. The claims are part of the disclosure and applicant must **specifically point out support and distinctions** (not just sections as done by applicant) for each and every new claim.

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.



Suzette J-J Gherbi  
13 March 2006

§ (b) amends the claims to overcome rejections under 35 U.S.C. 112, second paragraph;

(C) amends the claims to place the application in condition for allowance; or

(D) only includes changes that were previously suggested by the examiner, and would not require the examiner to spend significant additional time to revise the Office action.

### 3. Form Paragraph

Form paragraph 7.46 should be used to notify applicant that the entry of a preliminary amendment is denied because the amendment unduly interferes with the preparation of an Office action.

#### ¶ 7.46 Preliminary Amendment Unduly Interferes with the Preparation of an Office Action

The preliminary amendment filed on [ 1 ] was not entered because entry of the amendment would unduly interfere with the preparation of the Office action. See 37 CFR 1.115(b)(2). The examiner spent a significant amount of time on the preparation of an Office action before the preliminary amendment was received. On the date of receipt of the amendment, the examiner had completed [ 2 ].

Furthermore, entry of the preliminary amendment would require significant additional time on the preparation of the Office action. Specifically, entry of the preliminary amendment would require the examiner to [ 3 ].

A responsive reply (under 37 CFR 1.111 or 37 CFR 1.113 as appropriate) to this Office action must be timely filed to avoid abandonment.

If this is not a final Office action, applicant may wish to resubmit the amendment along with a responsive reply under 37 CFR 1.111 to ensure proper entry of the amendment.

#### Examiner Note

1.

In bracket 1, provide the date that the Office received the preliminary amendment (use the date of receipt under 37 CFR 1.6, not the certificate of mailing date under 37 CFR 1.8).

2.

In bracket 2, provide an explanation on the state of preparation of the Office action as of the receipt date of the preliminary amendment. For example, where appropriate insert --the claim analysis and the search of prior art of all pending claims-- or --the drafting of the Office action and was waiting for the supervisory patent examiner's approval--.

3.

In bracket 3, provide a brief explanation of how entry of the preliminary amendment would require the examiner to spend significant additional time in the preparation of the Office action. For example, where appropriate insert --conduct prior art search in another classification area that was not previously searched and required-- or --revise the Office action extensively to address the new issues raised and the new claims added in the preliminary amendment--.

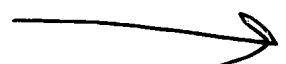
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#### 714.02 [R-3] Must Be Fully Responsive

37 CFR 1.111. Reply by applicant or patent owner to a non-final Office action.

(a)

(1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination



proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment.

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(2) *Supplemental replies.* (i) A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section. The Office may enter a supplemental reply if the supplemental reply is clearly limited to:

- (A) Cancellation of a claim(s);
- (B) Adoption of the examiner suggestion(s);
- (C) Placement of the application in condition for allowance;
- (D) Reply to an Office requirement made after the first reply was filed;
- (E) Correction of informalities (e.g., typographical errors); or
- (F) Simplification of issues for appeal.

(ii) A supplemental reply will be entered if the supplemental reply is filed within the period during which action by the Office is suspended under § 1.103(a) or (c).<

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

In all cases where reply to a requirement is indicated as necessary for further consideration of the claims, or where allowable subject matter has been indicated in an application, a complete reply must either comply with the formal requirements or specifically traverse each one not complied with.

Drawing and specification corrections, presentation of a new oath and the like are generally considered as formal matters, although the filing of drawing corrections in reply to an objection to the drawings cannot normally be held in abeyance. However, the line between formal matter and those touching the merits is not sharp, and the determination of the merits of an application may require that such corrections, new oath, etc., be insisted upon prior to any indication of allowable subject matter.

The claims may be amended by canceling particular claims, by presenting new claims, or by rewriting particular claims as indicated in 37 CFR 1.121(c). The requirements of 37 CFR 1.111(b) must be complied with by pointing out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments.

An amendment submitted after a second or subsequent non-final action on the merits which is otherwise responsive but which increases the number of claims drawn to the invention previously acted upon is not to be held not fully responsive for that reason alone. (See 37 CFR 1.112, MPEP § 706.)

The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP § 2163.06.

An amendment which does not comply with the provisions of 37 CFR 1.121(b), (c), (d), and (h) may be held not fully responsive. See MPEP § 714.

Replies to requirements to restrict are treated under MPEP § 818.